



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 5, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Larry Remer
The Primacy Group
3609 Fourth Avenue
San Diego, CA 92103

RE: MUR 4742

Dear Mr. Remer:

On May 12, 1998, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 27, 1999, found that there is reason to believe that you violated 2 U.S.C. § 441a, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notification or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be

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pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Seth H. Row, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis
Subpoena and Order
Designation of Counsel Form

21.04.403.1562

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 4742
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Larry Remer
The Primacy Group
3609 Fourth Ave.
San Diego, CA 92103

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

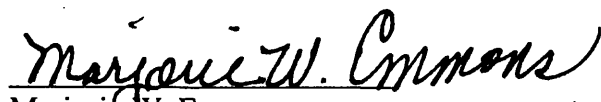
WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this *4th*, day of *May*, 1999.

For the Commission,



Scott E. Thomas
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Subpoena and Order
Larry Remer/The Primacy Group
MUR 4742
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Attachments

Document Request (1 page)
Questions (4 pages)

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from October, 1995 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, their dates of employment, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

"Volunteer" means to provide services to an entity without any monetary compensation.

A "Debt" is an obligation to make an expenditure arising out of an unpaid bill or unfulfilled contract or agreement. This definition of debt does not include obligations arising out of a loan. "Debt" in connection with an obligation to pay a vendor includes money owed to a

vendor by virtue of failing to pay the full amount of any invoice or other demand for payment within the time period specified by the vendor.

"Vargas for Congress '96" or "the Federal Committee" means the authorized campaign committee of Juan C. Vargas in connection with Mr. Vargas' campaign for the House of Representatives in 1996.

"Committee to Re-Elect Vargas" or "the State Committee" means the authorized campaign committee of Juan C. Vargas in connection with Mr. Vargas' campaign for re-election to the San Diego City Council in 1998.

"The Primacy Group" or "Primacy" means the business enterprise or company owned by Larry Remer located at 3609 Fourth Ave., San Diego, California 92103 and any activities conducted at any other location by any person employed by or affiliated with the company in connection with the business of the company.

"State Committee 1995" means the authorized campaign committee of Juan C. Vargas in connection with Mr. Vargas' campaign for the San Diego City Council in 1995.

"Resources" means office space, office equipment or supplies, telephones or telephone lines, money or time for which one is being compensated by any entity or individual.

QUESTIONS

1.
 - a. Identify all persons employed by The Primacy Group ("Primacy") who have worked on or assisted with any campaign for elected office in which Juan Vargas was the candidate.
 - b. Identify all persons who have an ownership interest in Primacy.
2. List what services Primacy provides to its clients. Describe with as much specificity as possible how Primacy calculates how much to bill for each service Primacy provides. If any such calculations are memorialized in (a) document(s), identify and produce the document(s).
3.
 - a. State when Primacy began to provide services to Vargas for Congress '96 ("Federal Committee").
 - b. List and describe with as much specificity as possible what services Primacy provided to the Federal Committee from the date identified in 3.a. above to March 26, 1996. Such description should include, but not be limited to: the types of services provided; the beginning date and duration of each service; how Primacy calculated each amount billed; and how much Primacy billed the Federal Committee for each service.
 - c. List and describe with as much specificity as possible what services Primacy provided to the Federal Committee from March 26, 1996 to the present. Such description should include, but not be limited to: the types of services provided; the beginning date and duration of each service; how Primacy calculated each amount billed; and how much Primacy billed the Federal Committee for each service.
4. List and describe each occasion between the date identified in response to 3.a. above and the present on which the Federal Committee incurred a "debt" to Primacy, as it is defined on page 4 of this Order. Such description should include, but not be limited to: the amount of the debt; how the debt was incurred; any efforts made by Primacy to collect the debt; and a listing of all dates(s) and repayment amount(s) for each debt.
5.
 - a. State when Primacy began to provide services to the Committee to Re-Elect Vargas ("State Committee").
 - b. List and describe with as much specificity as possible what services Primacy provided to the State Committee from the date identified in 5.a. until June 2, 1998. Such description should include, but not be limited to: the types of services provided; the beginning date and duration of each service; how Primacy calculated each amount billed; and how much Primacy billed the State Committee for each service.
 - c. List and describe with as much specificity as possible what services Primacy provided to the State Committee from June 2, 1998 to January 26, 1999. Such description should include, but not be limited to: the types of services provided; the

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beginning date and duration of each service; how Primacy calculated each amount billed; and how much Primacy billed the State Committee for each service.

d. State whether Primacy has provided any services to the State Committee, whether paid or unpaid, since January 26, 1999. If so, describe such services.

6. List and describe with as much specificity as possible what services Primacy provided to the political committee formed in connection with Mr. Vargas' candidacy for the San Diego City Council in 1995 ("State Committee 1995"). Such description should include, but not be limited to: the types of services provided; the beginning date and duration of each service; how Primacy calculated each amount billed; and how much Primacy billed the State Committee 1995 for each service.

7. a. List the beginning and end dates of any period when Deanna Liebergot has not been an employee of Primacy or has taken leave from active employment by Primacy. For each such period, state what other work, if any, Ms. Liebergot was performing.

b. State all functions Ms. Liebergot performs or performed in connection with her employment by Primacy and the periods of time that she has performed these functions.

8. a. List and describe what services Ms. Liebergot provided to the Federal Committee as an employee of Primacy from the date identified in response to 3.a. above to March 26, 1996. State how much time Ms. Liebergot spent providing services to the Federal Committee, on average per week, during this period.

b. Describe the amount and method by which Ms. Liebergot was compensated for her services to the Federal Committee from the date identified in response to 3.a. above to March 26, 1996. If she was compensated by the Federal Committee's paying Primacy for her services, describe the method that Primacy used to determine the amount which the Federal Committee was billed for her services.

9. a. List and describe what services Ms. Liebergot provided to the Federal Committee as an employee of Primacy from March 26, 1996 to the present. State how much time Ms. Liebergot spent providing services to the Federal Committee, on average per week, during this period.

b. Describe the amount and method by which Ms. Liebergot was compensated for her services to the Federal Committee from March 26, 1996 to the present. If she was compensated by the Federal Committee's paying Primacy for her services, describe the method that Primacy used to determine the amount which the Federal Committee was billed for her services.

10. Describe any agreement – written or oral – Primacy had with any entity or individual in connection with any entity or individual other than the Federal Committee compensating

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Ms. Liebergot for her services to the Federal Committee. If such agreement was memorialized in a document, identify and produce the document.

11. a. List and describe what services Ms. Liebergot provided to the State Committee as an employee of Primacy from the date identified in response to 5.a. above until June 2, 1998. State how much time Ms. Liebergot spent providing services to the State Committee, on average per week, during this period.
- b. State the amount which Primacy billed to the State Committee for Ms. Liebergot's services during this period. Describe the method that Primacy used to determine the amount which the State Committee was billed for Ms. Liebergot's services during this period.
12. a. List and describe what services Ms. Liebergot provided to the State Committee from June 2, 1998 to January 26, 1999. State how much time Ms. Liebergot spent providing services to the State Committee, on average per week, during this period.
- b. Describe the amount and method by which Ms. Liebergot was compensated for her services to the State Committee from June 2, 1998 to January 26, 1999. If she was compensated by the State Committee's paying Primacy for her services, describe the method that Primacy used to determine the amount which the State Committee was billed for Ms. Liebergot's services during this period.
13. a. State whether any of Primacy's current or former employees have volunteered for any political entity or candidate committee since October, 1995. If so, state for whom these employees have volunteered, and for how long. If any employees have volunteered during working hours state whether such volunteer work was authorized. If such authorization was memorialized in a document, identify and produce the document.
- b. State whether Primacy is aware of any occasion on which Ms. Liebergot has used Primacy's resources in connection with her volunteer work for any political entity or candidate committee. If so, describe how Primacy's resources were used, and state whether such use was authorized. If such authorization was memorialized in a document, identify and produce the document.
14. State whether Primacy owes or has owed any money to Ms. Liebergot since the date identified in response to 3.a. above. If so, state how much was owed or is owing, and how such obligation was incurred.
15. a. Describe with as much specificity as possible Primacy's polic(y)(ies) with regard to extending credit to Primacy's clients. State whether Primacy maintains different policies for political and non-political clients with regard to extensions of credit, or treats political and non-political clients differently under a single policy. If applicable, describe the differences between the policies or the differences within the policy. If such

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polic(y)(ies) was/were memorialized in (a) document(s), identify and produce the document(s).

b. With regard to the answers supplied to 15.a above, state whether this/these polic(y)(ies) is/are communicated to clients or potential clients before services to the client are begun.

c. List all clients to which Primacy has extended credit since October, 1995. For each such client state whether Primacy adhered to the polic(y)(ies) described in response to 15.a. above in connection with extending the credit.

16. a. Describe with as much specificity as possible Primacy's polic(y)(ies) with regard to collection of, or partial or total forgiveness of, "debts" (as defined on page 4 of this Order) owed to Primacy by clients. State whether Primacy maintains different policies for political and non-political clients with regard to debts, or treats political and non-political clients differently under a single policy. If applicable, describe the differences between the policies or the differences within the policy. If such polic(y)(ies) was/were memorialized in (a) document(s), identify and produce the document(s).

b. With regard to the answers supplied to 16.a. above, state whether this/these polic(y)(ies) is/are communicated to clients or potential clients before services to the client are begun.

c. List each client who has incurred a "debt," as defined on page 4 of this Order, to Primacy since October 1995. For each such client, state whether Primacy adhered to the polic(y)(ies) described in response to 16.a. in connection with the debt.

17. Describe Primacy's document retention and destruction policies and identify the person(s) responsible for ensuring that documents are properly retained and/or destroyed. If such policies are reflected in documents, identify and produce the documents. If any documents that would have been responsive to this subpoena were transferred to any third party, identify all such documents and the persons who currently are in possession, custody or control of the requested materials.

DOCUMENT REQUEST

1. Identify and produce all documents relating to any agreement between Primacy and the Federal Committee.
2. Identify and produce all documents relating to any agreement between Primacy and the State Committee.
3. Identify and produce all documents relating to any services provided by Primacy to the Federal Committee.
4. Identify and produce all documents relating to any services provided by Primacy to the State Committee.
5. Identify and produce all documents relating to any payments to Primacy from the Federal Committee for any services provided by Primacy. Such documents should include, but not be limited to, any invoices submitted by Primacy to the Federal Committee or other demands for payment from Primacy to the Federal Committee, and checks indicating payment.
6. Identify and produce all documents relating to any payments to Primacy from the State Committee for any services provided by Primacy. Such documents should include, but not be limited to, any invoices submitted by Primacy to the State Committee or other demands for payment from Primacy to the State Committee, and checks indicating payment.
7. Identify and produce all documents relating to the services provided by Deanna Liebergot to the Federal Committee including but not limited to: her job description as an employee of Primacy; a description of her duties as treasurer to the Federal Committee; and billing records for her work for the Federal Committee.
8. Identify and produce all documents relating to the services provided by Deanna Liebergot to the State Committee, including but not limited to a description of her duties as treasurer to the State Committee, and billing records for her work for the State Committee.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: The Primacy Group MUR: 4742
 Larry Remer, owner, The
 Primacy Group

This matter was generated based on a complaint filed with the Federal Election Commission ("The Commission") by Derrick Roach. See 2 U.S.C. § 437g(a)(2). This matter was also generated based on information ascertained by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

I. Facts

A. Complaint

The complaint contains two theories of alleged illegal acts in connection with a debt owed by the Federal Committee to Primacy which has been outstanding since March, 1996. The Complaint alleges that the State Committee paid excessive amounts to Primacy as a means of paying off the debt owed to Primacy by the Federal Committee as a result of which the State Committee made a contribution to the Federal Committee. In the alternative the Complaint alleges that Primacy made an excessive contribution to the Federal Committee by forgiving the debt.

In its filings with the Federal Election Commission ("the Commission") since March, 1996, the Federal Committee has reported a debt to Primacy of \$24,506.07 from Mr. Vargas' unsuccessful 1996 campaign for the House. Complainant first alleges that Mr. Vargas' 1998 City Council campaign organization, the State Committee, paid down the Federal Committee's debt to Primacy by over-paying Primacy for services to the 1998 City Council campaign. To

back up this assertion, the Complaint alleges that Primacy did "no visible campaigning or activity" for the State Committee to justify the fees paid to Primacy for the 1998 City Council race.

Complainant also argues, alternatively, that because no effort has been made to collect or pay the debt owed by the Federal Committee, Primacy has forgiven the debt and thus has made a corporate contribution to the Federal Committee.

B. Response

Respondents submitted a joint response signed by Deanna Liebergot, the treasurer for both the Federal and State Committees, Juan Vargas, and Larry Remer, Primacy's owner.

Respondents admit that the Federal Committee owes Primacy \$24,506.07 for work performed as the Federal Committee's primary vendor in the 1996 Congressional campaign. Respondents deny, however, that the State Committee paid down the Federal Committee's debt. Specifically, Respondents deny Complainant's assertion that Primacy did no work to justify the \$13,298.88 paid to Primacy by the State Committee in the first part of 1998, and the inference that the State Committee over-paid Primacy. Respondents assert that the State Committee engaged Primacy on retainer, and assert that Primacy performed substantial work for Mr. Vargas in connection with the City Council primary on June 2, 1998 and would have performed work for Mr. Vargas in connection with the general election on November 3, 1998, including fundraising, policy research and the like.¹

To back up their claim that Primacy indeed performed work for the State Committee

¹ The Commission notes that, after Respondents filed their response, Mr. Vargas won the June 2, 1998 City Council primary by over 50%, out-polling Mr. Gomez 3-to-1, according to news reports. Ray Huard, Incumbents In a Sweep, SAN DIEGO UNION-TRIBUNE, June 3, 1998, at B1. Mr. Vargas' showing meant that there was no general election for this seat in November, 1998.

during Mr. Vargas' campaign for re-election to the City Council, Respondents provide Primacy invoices for December 1997 and the first three months of 1998; these invoices each list a \$3,000 charge attributed to "Consulting," and various charges attributed to copies, telephone charges, and reimbursement for lunches and meetings.² Along with payments for Primacy's consulting services, Respondents also state that the State Committee's treasurer, Deanna Liebergot, "is an employee of The Primacy Group, and monies paid include her fees; and the campaign fundraiser, Mr. James Taylor, is utilizing office space, phones, etc. at The Primacy Group and fees paid are also intended to pay those costs." Respondents' Letter at 1.

In response to the allegation that Primacy has forgiven the Federal Committee's debt, Respondents admit that no effort has been made to collect the \$24,506.07 debt, but insist that the debt will be paid in accordance with applicable laws. Respondents point out that the Federal Committee has not reported any reduction in the debt in filings with the Commission since March, 1996.

II. Analysis

A. Primacy and Larry Remer May Have Made a Contribution to the Federal Committee by Forgiving the Federal Committee's Debt

1. Law

The Federal Election Campaign Act of 1971, as amended ("the Act") states that no person shall make a contribution to a candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds \$1,000. 2 U.S.C.

² Respondents also provide invoices from two other businesses -- a printer and a computer service -- which are apparently owned by Mr. Remer and housed at the same address as Primacy. Although the State Committee used these vendors during the 1998 City Council campaign, and the Federal Committee used these vendors during the 1996 campaign, these businesses are not named as Respondents in this matter.

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§ 441a(a)(1)(A). A candidate, political committee or other person is prohibited from knowingly accepting or receiving any prohibited contribution made in violation of the Act or Commission regulations. 2 U.S.C. § 441a(f). The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office, as well as the payment by any person of compensation for personal services. 2 U.S.C. § 431(8)(A)(i),(ii). Also, under the Act contributions from corporations, labor organizations and national banks are prohibited and may not be accepted by candidates for Federal office.³ 2 U.S.C. § 441b(a).

Under the Act, an employer makes a contribution to a candidate when it compensates an employee who provides "volunteer" services to the candidate. See 11 C.F.R. § 100.7(a)(3). However, if the employee works as a "volunteer" during regular working hours, but makes up the time spent not working for the employer, no contribution has taken place. 11 C.F.R. § 100.7(a)(3)(i). Similarly, if the employee volunteers services for the candidate during time for which they are not paid by the employer, then no contribution by the employer has resulted. See 11 C.F.R. §§ 100.7(a)(3)(iii) and 100.7(a)(3)(ii). In addition, legal and accounting services are not considered "contributions" to an authorized committee if the person paying for the services is the regular employer of the person performing the services and the services are solely to ensure compliance with the Act. 2 U.S.C. § 431(8)(B)(ix)(II).

The extension of credit by any person to a candidate's authorized political committee is also a contribution, unless the credit is extended in the ordinary course of business.

11 C.F.R. § 100.7(a)(4). The terms of any credit extended must be substantially similar to

³ Also, under 11 C.F.R. § 110.3(d), it is illegal to transfer funds or assets from a candidate's campaign committee or account for a non-Federal election to his or her principal campaign

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extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

11 C.F.R. § 116.3(a). In determining whether credit was extended by an unincorporated vendor⁴ in the ordinary course of business, the Commission will examine the vendor's established procedures and past practice in approving credit, the usual and normal practice in the vendor's industry, and whether the vendor received prompt payments in the past from the candidate or the candidate's authorized committee. See 11 C.F.R. § 116.3(c).

In addition, a commercial vendor must pursue collection of a debt in a commercially reasonable manner; otherwise, a contribution will result. 11 C.F.R. § 100.7(a)(4). To settle or forgive a debt owed by an ongoing committee without making a contribution, the vendor must file with the Commission its intention to settle or forgive the debt. 11 C.F.R. § 116.8. The Commission will determine if forgiveness or settlement of a debt owed to an unincorporated vendor is "commercially reasonable" based on factors such as whether the debtor committee has made reasonable efforts to raise the funds to pay back the debt, 11 C.F.R. § 116.4(d)(2), and whether the vendor has made similar efforts to collect the debt as it would a nonpolitical debt, such as by withholding additional goods or services until payment on the debt is made, referring the debt to a debt collection agency, or commencing litigation. See 11 C.F.R. § 116.4(d)(3).

2. Analysis

The available evidence raises questions as to whether, under an alternative theory, Larry Remer, the owner of Primacy, may have made an excessive contribution to the Federal Committee by failing to make a commercially reasonable attempt to collect the debt.⁵ See

committee or other authorized committee for a Federal election.

⁴ As noted below, although Complainant implies that Primacy is a corporation, a check of public records by the Commission revealed that Primacy is not incorporated.

⁵ Although Complainant alleges that forgiveness of the debt owed to Primacy by the Federal

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11 C.F.R. § 100.7(a)(4). However, there are significant questions which need to be answered before the Commission can determine whether the violations described by this alternative scenario in fact occurred.⁶

Although Respondents claim that the Federal Committee intends to pay the debt, the Commission does not have any information to indicate that Primacy has made any attempt to collect the debt. As noted above, the debt of \$24,506.07 has been outstanding since March, 1996.⁷

Furthermore, the available information raises questions as to whether the Federal Committee is making reasonable efforts toward raising the money to pay off the debt to Primacy. The Federal Committee reported \$88.53 cash on hand as of December 31, 1998, and debts outstanding on that date of \$67,017.39. The Federal Committee raised \$500.00 in the last half of 1997 which all went to pay down a debt from the '96 campaign to Mr. Remer's printing business, raised \$2000.00 in the first half of 1998 from a PAC, which was disbursed immediately to pay off a debt to a campaign worker, and received a \$2,000 contribution in the last half of 1998 from Larry Remer, himself, and his wife, which went to pay down a loan from Mr. Vargas to the Federal Committee, and not the debt to Mr. Remer's company. In addition, the Federal

Committee would constitute a corporate contribution to the Federal Committee, the Primacy Group is not incorporated in California. Nevertheless, the complaint does raise a valid allegation of an excessive personal contribution by Larry Remer, the owner and apparent sole proprietor of Primacy, in violation of 2 U.S.C. § 441a(a)(1)(A).

⁶ There is also a possibility that Primacy may have extended credit to the Federal Committee in March 1996, the month that the debt was incurred, outside of the ordinary course of business. See 11 C.F.R. § 116.3(c). The Commission will examine this potential violation if further information indicates that such an illegal extension of credit may have occurred.

⁷ In January and February, 1996, the Federal Committee paid Primacy a \$1,000 monthly retainer. In March, 1996, the month the debt to Primacy was incurred, the Federal Committee paid Primacy a total of \$112,650.00 for advertising leading up to the primary election. The debt may be the cost of advertising for which Primacy was not reimbursed in the last month of the

Committee has paid down several debts outstanding to other vendors, without paying down the Primacy debt at all.⁸ The fact that the Federal Committee has paid down debts to other creditors since the election, including the candidate, but not Primacy, raises questions about whether the Federal Committee is making reasonable efforts to repay the debt.

The Commission also notes that, despite the debt owed to Primacy, Mr. Vargas and Mr. Remer apparently continue to enjoy a close relationship. Both the Federal Committee and the State Committee are housed at Primacy's address and, as noted above, a Primacy employee is treasurer to both committees. As noted above, Mr. Remer and his wife also contributed \$2,000 to the Federal Committee in November, 1998, which was disbursed immediately to pay down a loan from Mr. Vargas to the Federal Committee.⁹ Further, Mr. Remer's daughter, a high school student, was recently an intern in Mr. Vargas' city council office. Diane Bell, SAN DIEGO UNION-TRIBUNE, Aug. 12, 1997, at B1.

Because the available evidence raises questions as to whether, under an alternative theory, Mr. Remer made an excessive contribution to the Federal Committee by failing to make a commercially reasonable effort to collect the debt, there is reason to believe that Larry Remer and The Primacy Group violated 2 U.S.C. § 441a(a)(1)(A).

campaign.

⁸ The Federal Committee owes \$22,500 to its former employees, nearly \$3,000 to outside vendors, and \$2,990.13 to PG Printing and Graphics, a company owned by Mr. Remer and located within the Primacy building.

⁹ The Federal Committee owes Mr. Vargas \$12,225.00 as of December 31, 1998.

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